**Court No. 2**

Writ Petition No. 845 of 2001 (S/B) of 2001

Dr. S.K. Tomar …… Petitioner

V/s

G.B.Pant University of Agriculture and Technology and others ….. Respondents

**……..**

**Hon. P.C. Verma,J.**
**Hon. Irshad Hussain,J.**

Heard Sri J.C.Joshi, learned counsel for the petitioner, Sri R. Dobhal, learned counsel for the G.B.Pant University of Agriculture and Technology and learned Standing Counsel.

This writ petition has been filed by the petitioner seeking a writ in the nature of mandamus commanding the respondents to refix the salary of the petitioner treating him in the University service on 1.10.1973 and correct the last pay certificate accordingly in case his services are transferred to any other university and pay the salary of difference for the period 1.10.1973 to 30.6.1978 and thereafter, He further sought a direction to the respondent no.4 to pay the petitioner's salary ignoring the resolution no. 9 dated 9.9.1997 and prayed for quashing of the said resolution contained in Annexure 15 to the writ petition.

By the impugned office order dated 27.11.1997, the date of the absorption of the petitioner w.e.f. 1.10.1973 has been changed to 30.6.1978. This office order is passed on the resolution of the Board of Management of the G.B.Pant University of Agriculture and Technology, Pant Nagar, District Udham Singh Nagar. Learned counsel for the petitioner has challenged this office order on the ground that the petitioner was initially appointed as a Senior Research Assistant Group-I in the Institute of Agricultural Sciences, Kanpur. He remained with U.P. Government till h e joined in the G.B. Pant University. Thereafter, his services were permanently transferred in G.B.Pant University of Agriculture and Technology, which is evident from the appointment letter of the petitioner which is annexed as Annexure 14 to the writ petition.

A perusal of the Annexure 14 to the writ petition also shows that the petitioner was absorbed on the post he was holding in the University w.e.f. 1.10.1973 on permanent basis in the pay scale of Rs.500-750/-. Since then, he was continuously working there. The resolution of the Board does not disclose any reasoning as to why the date of absorbtion has been fixed to be later than the date of joining. No reason has been indicated in the counter affidavit for fixing such date, which is contradistinct to the date of permanent absorbption as indicated in the appointment letter. In absence of any reason of change of date of absorbtion, the impugned office order dated 27.11.1997 is arbitrary and violative of Article 14 and 16 of the Constitution of India. The date of absorbtion given in the appointment letter is the date when the services of the petitioner were transferred. The reason is that the actual date of transfer is the date of absorbtion, which is reasonable one. Any change of the date of absorbtion without reason to the detriment of he petitioner can not be permitted to be allowed. As we have observed the office order dated 27.11.1997 is arbitrary being without reason, can not be allowed to stand and is liable to be quashed.

Therefore, the writ petition is allowed and the order dated 27.11.1997 is hereby quashed. It is declared that the petitioner is absorbed permanently in the G.B.Pant University of Agriculture and Technology w.e.f. 1.10.1973 as indicated by the appointment letter contained in Annexure 11 and 14 to the writ petition. The petitioner shall be given all the consequential benefits. No order as to costs.

**(Irshad Hussain, J.)** **(P.C.Verma,J.)**

Dt.01.11.2002

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